IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/06/2003

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THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION.NO.1825 OF 2001
and
W.M.P.NO.2475 OF 2001

S. Navaneethakrishnan,
S/o. K.S. Sabapathy .. Petitioner

-Vs-

1. Syndicate Bank,
Deputy General Manager,
Zonal Office, Woods Road,
27/28, B.R. Complex,
Chennai 600 002.

2. Syndicate Bank,
rep. by its Senior Branch Manager,
Rajapalayam Branch,
Rajapalayam,
Srivilliputhur District.

3. The Government of Tamil Nadu,
rep. by the Secretary and the
President  State Community
Verification Vigilance Committee,
Department of Welfare of SC & ST,
(No.2) Fort St. George,
Chennai 600 009. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.N. Paul Vasanthakumar

For Respondent-3 : Mrs.N.G. Kalaiselvi
Special Govt. Pleader

Respondents 1-2 : Mr.Karthik for
M/s.T.S. Gopalan & Co.

:J U D G M E N T

The petitioner was employed under the respondent No.1 on the basis of certain documents showing that he belonged to Schedule Tribe community. Subsequently since some doubts had arisen, the petitioner was called upon to produce appropriate community certificate. The petitioner filed application before the Tahsildar, Ambasamudram Taluk. However, such application was rejected on 8.9.1989. Thereafter W.P.No.934 of 1990 was filed by the petitioner, his father and brother. The said writ petition was allowed on 20.4.1999 wherein the High Court while quashing the order of Tahsildar, permitted the petitioners in the said case to approach the appropriate committee for obtaining a community certificate. Accordingly, the matter was enquired into by the District Level Committee which rejected the application for grant of community certificate on the finding that the petitioner does not belong to the said community by order dated 13.1.2000. It is stated in the writ petition that against the aforesaid order, appeal has been preferred before the respondent No.3 and a communication dated 28.8.2 000 has been received by the petitioner indicating that such matter is pending. While the matter stood thus, the petitioner was relieved from the duty on the basis of the report of the District Level Committee dated 13.6.2000. The aforesaid orders of the bank, the respondent Nos.1 & 2, are being challenged.

2. It is the contention of the petitioner that as per the decision of the Supreme Court in A.I.R. 1995 SC 94 (KUMARI. MADHURI PATIL v. ADDL. COMMISSIONER, TRIBAL DEVELOPMENT), the question relating to validity of the community certificate has to be considered by an appropriate three members Committee and not by two members Committee. It is therefore submitted that the order of dismissal on the basis of the decision of two member District Level Committee should be quashed as non-est.

3. From the materials on record it is apparent that an appeal has been filed before the State Level Committee. There are several decisions of this Court holding that the matter has to be decided by the State Level Committee. There is no material on record to show that the appeal pending before such Committee has been disposed of. It is therefore observed that if the appeal pending before the State Level Committee has not been disposed of, the same should be disposed of in accordance with law within a period of three months from the date of communication of this order. However, if in the meantime such appeal has been disposed of, the order passed by the Committee may be communicated to the petitioner.

4. The next question is as to whether the order of dismissal should be set aside. Since the question relating to community certificate is to be finally determined by the State Level Committee, the order of dismissal would obviously depend upon such order of the State Level Committee. It is therefore observed that if ultimately it is found that the petitioner belongs to Schedule Tribe, the order of termination shall stand quashed and the petitioner would be entitled to all the consequential benefits including the payment of backwages and continuity of service, etc. from the date of such dismissal. However, if it is found that the petitioner does not belong to Schedule Tribe community, the order of termination shall stand confirmed.

5. Subject to the aforesaid observation and direction, the writ petition is disposed of. No costs.

Index : Yes
Internet : Yes
dpk

To

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